

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ELITE CASINO EVENTS, LLC,
Plaintiff,

v.

ELITE CASINO EVENTS, LLC,
Defendant.

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No. 2:23-cv-01281-LPL

**ORDER GRANTING IN PART
DEFENDANT ELITE CASINO EVENTS, LLC's
MOTION FOR NEW TRIAL UNDER RULE 59**

On this day, the Court considered Defendant Elite Casino Events, LLC's motion for new trial in the above matter ("Motion").

The Court notes that no affidavits in support of the Motion were filed with the Motion. However, the Court also notes that the Motion relies on the Plaintiff's own pleadings and the docket to argue that the motion for alternative service in this case (Doc. 6) did not include an affidavit or declaration by a person with personal knowledge to testify regarding the attempts at service, but rather relied only on the affidavit of an attorney in Pennsylvania, who relies and refers to an affidavit of the actual servicing agent, David Barberena (Doc. 6-4, para. 7), though no affidavit of David Barberena was made of record.

Noting that service matters are enforced strictly, and Court granted the motion for alternative service based on counsel's reliance on a non-existent affidavit, or at least none in the Court's record, the Court now FINDS that the lack of an affidavit

or declaration by a person with personal knowledge regarding Plaintiff's motion for alternative service in the record is good cause to GRANT the Motion based on its own initiative under Rule 59(d), and ORDERS briefing of the Motion and consideration of the matter as follows:

- 1) Defendant has 28 days to admit counsel, local and pro hac vice, in this case, and properly brief its motion for new trial from the date of this order.
- 2) Plaintiff will have 21 days to respond to the Defendant's brief, calculated from the date of its filing and service.
- 3) Defendant may file a reply to Plaintiff's brief no later than 14 days from the date on which the Plaintiff's brief is filed and served.

The Court will consider the briefs, and unless convinced that a hearing is necessary, will rule on the Motion based on the Court's docket and the briefing.

Until the Court rules on the Motion, Plaintiff is ORDERED to refrain from any further action based on the Court's prior judgment in this matter.

Issued this day, _____, 2024,

Judge Presiding